

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

v.

ALMA L. ZAPIEN,

Defendant.

8:22CR215

ORDER

This matter is before the Court on defendant Alma L. Zapien’s (“Zapien”) *pro se* Motion for “Compassionate Release . . . in accordance with 18 U.S.C. [§] 3582(c)(1)(A) as amended by the First Step Act of 2018,” Pub. L. No. 115-391, 132 Stat. 5194 (2018) (Filing No. 51). Zapien asks the Court to release her from her 60-month term of imprisonment and grant her supervised release so she can take care of her daughter who suffers from “severe and permanent brain damage” and “intractable epilepsy,” among other ailments. According to documents Zapien has provided the Court, her daughter’s conditions make it so she “requires complete care for all daily living activities,” for which Zapien had long been responsible as her primary caregiver.

Zapien’s daughter reportedly has still had some help following Zapien’s imprisonment on August 3, 2023. The daughter’s father and stepfather have stepped up to help her, but Zapien seems to contend that help is insufficient. Zapien also states that Alma “is due to have another brain surgery” soon to treat her severe seizure condition, which will result in her requiring even more care.

On November 1, 2023, the Court entered General Order No. 2023-09 (Filing No. 50) in Zapien’s case and appointed the Federal Public Defender for the District of Nebraska to represent her with respect to a sentence reduction based on Amendment 821 to the United States Sentencing Guidelines. On February 22, 2024, the government and the Federal

Public Defender stipulated that Zapien's sentence should be reduced to 57 months pursuant to that amendment (Filing No. 54). The Court subsequently entered an order reducing Zapien's sentence in that manner (Filing No. 56).

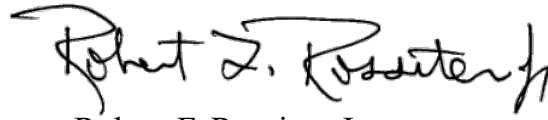
In light of Zapien's motion, which raises potentially colorable grounds for compassionate release, the Court will expand the representation of the Federal Public Defender to matters concerning her request for compassionate release and will order a preliminary investigation into the matter.

IT IS ORDERED:

1. The appointment of the Federal Public Defender in this matter is expanded to include the limited purpose of determining whether Zapien may qualify for relief under 18 U.S.C. § 3582(c)(1)(A).
2. In the event the Federal Public Defender should decline this expanded appointment because of a conflict of interest or on the basis of the Amended Criminal Justice Act Plan, the Federal Public Defender shall provide the Court with a draft appointment order (CJA Form 20) bearing the name and other identifying information of the CJA Panel attorney identified in accordance with the Amended Criminal Justice Act Plan for this district.
3. If upon review the Federal Public Defender should conclude that Zapien's motion is frivolous, the Federal Public Defender may move to withdraw as counsel.
4. The U.S. Probation and Pretrial Services Office is directed to investigate Zapien's compassionate-release request and promptly file under seal a report on that investigation.
5. The probation office is authorized to disclose Presentence Investigation Reports to the Federal Public Defender and the United States Attorney for the purpose of evaluating the motion. Zapien's counsel shall provide the Presentence Investigation Report to any subsequently appointed or retained counsel. In accordance with the policy of the Federal Bureau of Prisons, no Presentence Investigation Report shall be provided to inmates.
6. The government and Zapien's counsel shall each file within ten days of the probation office filing its investigation report a brief addressing Zapien's request for sentencing relief and provide any evidence necessary to the Court's disposition of her motion. Absent an extension, the motion shall be deemed fully briefed and submitted as of that date.

Dated this 4th day of March 2024.

BY THE COURT:

A handwritten signature in black ink, reading "Robert F. Rossiter, Jr." with a stylized flourish at the end.

Robert F. Rossiter, Jr.
Chief United States District Judge